



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/235,084	01/21/1999	ALAN WALBECK	INTELOG.003A	5205

20995 7590 04/18/2003

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

DINH, KHANH Q

ART UNIT	PAPER NUMBER
----------	--------------

2155

DATE MAILED: 04/18/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/235,084

Applicant(s)

WALBECK ET AL.

Examiner

Khanh Dinh

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-16 and 19-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-16 and 19-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This is in response to the Remarks filed on 2/11/2003 (paper # 12). Claims 1-16 and 19-33 are presented for examination.

Claim Rejections - 35 USC 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371 (c) of this title before the invention thereof by the applicant for patent.

3. Claims 1-7, 9, 10, 13, 14, 19-25, 27, 28 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Norin et al US pat. No.5,787,247.

As to claim 1, Norin discloses an internal node (34 fig.2) database comprising information about nodes on a network (see abstract, figs.1, 2, col.8 line 30 to col.9 line 65 and col.12 line 5 to col.13 line 56), a software module (i.e., using monitoring functions, col.15 line 11 to col.16 line 57) configured to provide an active mode and a standby mode, said active mode configured to maintain a said internal node database and to provide access to said node database, said standby mode configured to maintain said internal node database as a mirror copy (i.e., replicated resource) of an external node database (also see col.13 line 18 to col.15 line 60).

As to claims 2, Norin discloses internal node database further comprising rules that specify actions to be taken upon a state change of a client node (see col.17 line 7 to col.19 line 65 and col.20 line 21 to col.23 line 63).

As to claims 3 and 4, Norin discloses rules are simple and complex rules (see col.17 line 7 to col.19 line 65 and col.20 line 21 to col.23 line 63).

As to claims 5-7, Norin discloses a rules engine configured to interpret rules, shims configured to translate rules into a rule definition language and a change in an instance variable of the client node (see col.17 line 7 to col.19 line 65 and col.24 line 1 to col.26 line 27).

As to claims 9 and 10, Norin discloses transitioning to said active mode when an unacknowledged client request is detected and configured to tunnel a first protocol through a second protocol (see col.13 line 18 to col.14 line 60, col.17 line 7 to col.19 line 65 and col.20 line 21 to col.23 line 63).

As to claim 13 and 14, Norin discloses an event handler configured to notify a user application when a change occurs in an instance variable of said client node (see col.13 line 18 to col.14 line 60, col.17 line 7 to col.19 line 65 and col.20 line 21 to col.23 line 63).

As to claim 16, Norin discloses user interface is configured to allow a user to control nodes on a power line network (see col.13 line 18 to col.14 line 60, col.17 line 7 to col.19 line 65 and col.20 line 21 to col.23 line 63).

As to claim 19, Norin discloses: creating a node database containing information about said nodes (see abstract, figs. 1, 2, col.8 line 30 to col.9 line 65 and col.12 line 5 to col.13 line 56),

designating an active gateway node to maintain said node database, said active gateway node providing one or more access methods to access said node database (i.e., using monitoring functions, col.15 line 11 to col.16 line 57), and mirroring said node database in one or more standby server nodes (i.e., replicate resource, see col.13 line 18 to col.15 line 60).

Claims 20, 21 are rejected for the same reasons set forth in claims 2 and 5 respectively.

As to claims 22 and 23, Norin discloses generating event notifications when said state change occurs provided to a dispatcher (see fig.2, col.13 line 18 to col.14 line 60, col.17 line 7 to col.19 line 65 and col.20 line 21 to col.23 line 63).

Claims 24 and 25 are rejected for the same reasons set forth in claims 6 and 7 respectively.

As to claim 27, Norin discloses activating one of said standby server nodes after said active server becomes inactive (see col.13 line 18 to col.14 line 60, col.17 line 7 to col.19 line 65 and col.20 line 21 to col.23 line 63).

As to claim 28, Norin discloses encapsulating raw packets in a first protocol into wrapper packets in said desired protocol and tunneling said raw packets through said desired protocol (see col.13 line 18 to col.14 line 60, col.17 line 7 to col.19 line 65 and col.20 line 21 to col.23 line 63).

Claim 31 is rejected for the same reasons set forth in claim 13.

Claim Rejections - 35 USC 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the

subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8, 11, 12, 15, 26, 29, 30, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norin et al., US pat. No.5,787,247.

As to claims 8, 11, 12, 15 and 33, Norin's teachings still applied as in item 3 above.

Norin does not specifically disclose the use of ping requests, power line protocol, PLX protocol and an Internet browser. However, the use of such protocol and interface is generally well known in the art. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement well-known teachings into the system of Norin to process and control data processing systems because it would have controlled data processing systems more quickly (for example, Golden of the US pat. No.6,272,127 discloses the use of ping requests, power line protocol, PLX protocol and an Internet browser, see col.20 lines 37-57, col.29 lines 46-67 and col.54 lines 26-60).

Claim 26 is rejected for the same reasons set forth in claim 8. As to the added limitation, Norin discloses listening for responses to said requests, said responses used to update said node database (see col.13 line 18 to col.14 line 60, col.17 line 7 to col.19 line 65 and col.20 line 21 to col.23 line 63).

Claims 29, 30 and 32 are rejected for the same reasons set forth in claims 11, 12, 15 respectively.

Response to Arguments

In response to Applicants' argument that cited reference Norin et al., (U.S. Pat. No. 5,787,247) is directed to a distributed database system from what of the applicants' invention as a gateway, the law of anticipation requires that a distinction be made between the invention described or taught and the invention claimed. It does not require that the reference "teach" what the subject patent teaches. Assuming that a reference is properly "prior art," it is only necessary that the claims under consideration "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. *Kalman v. Kimberly-Clark Corp.*, 218 *USPQ* 789.

Applicants' arguments have been found not persuasive. Claim 1 is taken for the purpose of illustration. Norin teaches a method for describing a robust network environment, which prevent inadvertent data loss by verifying that changes made to a local copy of the data reside on at least one another system in the network. Norin discloses an internal node (34 fig.2 acting as a gateway to connect networks using different communication protocols) comprising information about nodes on a network (i.e., defining various states can indicate full participation in the replication of the data, see abstract, figs.1, 2, col.1.8 line 30 to col.9 line 65 and col.12 line 5 to col.13 line 56), a software module (i.e., using monitoring functions to monitor the replica state in order to detect transitions from one state to another, col.15 line 11 to col.16 line 57) configured to provide an active mode and a standby mode, said active mode configured to maintain a said internal node database and to provide access to said node database, said standby mode configured to maintain said internal node database as a mirror copy (i.e., replicated resource) of an external node database (also see col.13 line 18 to col.15 line 60).

Taking claim 19 for another illustration, Norin discloses method for creating a node database containing information about said nodes (i.e., defining various states can indicate full participation in the replication of the data, see abstract, figs. 1, 2, col.8 line 30 to col.9 line 65 and col.12 line 5 to col.13 line 56), designating an active gateway node to maintain said node database, said active gateway node providing one or more access methods to access said node database (i.e., using monitoring functions to monitor the replica state in order to detect transitions from one state to another, col.15 line 11 to col.16 line 57), and mirroring said node database in one or more standby server nodes (i.e., using replicate resource, see col.13 line 18 to col.15 line 60).

6. Claims 2-16 and 20-33 are dependent on claims 1 and 19 respectively. Therefore, they are rejected at least for the same reasons set forth above to claims 1 and 19 or other reasons set forth in the previous office action filed on September 5, 2002 [see Paper No. 10]. With all above given reasons, the rejections for claims 1-16 and 19-33 are respectfully maintained.

Other prior art cited

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Golden et al. US pat. No.6,272,127.

Conclusion

8. Claims 1-16 and 19-33 are rejected.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (703) 308-8528. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 4:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh, can be reached on (703) 305-9648. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-5510 for regular communications and 703-746-7239 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305 -9600.

Khanh Dinh
Patent Examiner
Art Unit 2155
04/15/2003


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100